STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1758

In the Matter of the Application of Luvenia Kollman for a Change of Name On Behalf of a Minor.

Filed August 28, 2023
Reversed and remanded
Smith, Tracy M., Judge

Hubbard County District Court
File No. 29-CV-22-698

John E. Valen, Walker, Minnesota (for appellant Luvenia Kollman)

Darrin L. Johnson, Greensville, Kentucky (pro se respondent)

Considered and decided by Bryan, Presiding Judge; Johnson, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

Applicant Luvenia Kollman appeals from the district court's order denying her application for a name change on behalf of her minor child. Because the district court did not supply findings to support its denial of the application, we reverse and remand.

FACTS

Luvenia Kollman applied for a name change on behalf of her minor child to change his first, middle, and last names from "Toni Michelle Johnson" to "William Oliver

Kollman." At the time of the name-change application, Oliver was 15 years old.[1] Respondent Darrin Johnson, Oliver's father, opposed the name change. The following facts are derived from an evidentiary hearing held on August 30, 2022, at which a referee received evidence and heard testimony from Kollman, Oliver, and Johnson.

Kollman and Johnson were married and had two children, including Oliver. They divorced in May 2012 and, since that time, have shared joint physical custody of Oliver. In December 2019, Johnson moved to Kentucky, and, with the parties' agreement, Oliver moved with Johnson.

Oliver began to openly identify as transgender in 2020, while living with his father in Kentucky. In October 2020, Oliver returned to Minnesota to live with Kollman and has remained in Minnesota ever since. Oliver began using the name Oliver in November 2020, but he went by "William" for a short time prior to choosing the name Oliver. Oliver is known by the name Oliver to his neighbors and relatives and at school.

In March 2021, Oliver began receiving weekly mental-health counseling from a licensed professional clinical counselor. Oliver has also received care from a gender health clinic at a children's hospital since April 2021. At the hearing, Kollman provided two exhibits in the form of letters from Oliver's mental-health counselor and his care team at the children's hospital, which both confirmed a diagnosis of "gender dysphoria." Oliver testified in agreement with this diagnosis.

[1] We refer to minor child by his first name to avoid confusion with other family members. We use the name Oliver because that is how Kollman's briefing refers to him.

When asked about the reason for the requested name change, Oliver testified, "I wish to change it so that I don't have a fear of people finding out that it's not my real name. Um, I wish to change it so that I can go to the doctor and hear the name that makes me feel like myself."

Johnson testified that he was uncomfortable with the requested name change because of Oliver's age and Johnson's doubts about Oliver's gender dysphoria. Oliver testified that Johnson has not accepted that Oliver identifies as a boy. Oliver stated that Johnson does not use the name Oliver and that their relationship is "very rocky."

The referee proposed, and the district court adopted, an order denying the application for a name change.

Kollman appeals.[2]

DECISION

Kollman argues that the district court abused its discretion by denying her application for her minor child Oliver's name change.

Minnesota Statutes sections 259.10-.13 (2022) govern applications for a name change. If the general requirements established by statute are met, a court "shall" grant the application unless an exception applies. Minn. Stat. § 259.11(a). One exception is when, in the case of a name change for a minor child, "the court finds that such name change is not in the best interests of the child." *Id.* If a parent objects to the name change, the district court should grant the request "only where the evidence is clear and compelling that the

[2] Because Johnson did not file a brief in this court, we determine this case on the merits pursuant to Minnesota Rule of Civil Appellate Procedure 142.03.

substantial welfare of the child necessitates such change." *In re Application of Saxton*, 309 N.W.2d 298, 300-01 (Minn. 1981) (quoting *Robinson v. Hansel*, 223 N.W.2d 138, 140 (Minn. 1974)). Even so, "resolution of the dispute hinges on the best interests of the child." *Id.* at 302.

The Minnesota Supreme Court has provided a list of five factors that the district court may consider in determining the child's best interests. *Id.* at 301. These factors are (1) the length of time that the child has had the current name, (2) any potential harassment or embarrassment the change might cause, (3) the child's preference, (4) the effect of the change on the child's relationship with each parent, and (5) the degree of community respect associated with the present and proposed names. *See id.* This list of factors is nonexclusive, meaning the district court need not limit its best-interests analysis to these factors. *Id.*; *see also Aitkin Cnty. Fam. Serv. Agency v. Girard*, 390 N.W.2d 906, 909 (Minn. App. 1986).[3]

"We review a district court's grant of a request to change a child's name for [an] abuse of discretion." *Foster v. Foster*, 802 N.W.2d 755, 756 (Minn. App. 2011). "A district court abuses its discretion when evidence in the record does not support the factual findings, the court misapplied the law, or the court settles a dispute in a way that is against logic and the facts on the record." *Id*. at 757 (quotation omitted).

When granting or denying an application for a name change, the district court should set forth the reasons for its decision. *Saxton*, 309 N.W.2d at 301; *see also Girard*, 390

[3] Although the factors are not limited by their terms to surnames, we note that *Saxton* and other cases applying the factors have primarily focused on changes to surnames.

N.W.2d at 909. The district court must provide findings that indicate that it considered the relevant factors in determining the child's best interests. *In re Welfare of C.M.G.*, 516 N.W.2d 555, 561 (Minn. App. 1994). The failure to provide such findings constitutes an abuse of discretion. *Id.*

Here, the district court checked a box in its written order stating that "[t]he change of name is not in the best interests of" Oliver. The district court then gave the following explanation:

> First, and foremost, this decision has zero to do with any issue of gender whatsoever. The Court's granting of a minor's name change over the objection of one parent is exercised with "great caution and only where the evidence is clear and compelling that the substantial welfare of the child necessitates such change." *LaChapelle v. Mitten*, 607 N.W.2d 151, 166 (Minn. Ct. App. 2000) Quoting *Robinson v. Hansel*, 302 Minn. 34, 36, 223 N.W.2d 138, 140 (1974). In considering all the testimony and evidence presented at hearing there was not a showing that the "substantial welfare" of the child necessitates such a change by clear and compelling evidence. Finally, a big consideration and struggle for the Court was regarding the exact change request; i.e. Just First name change only v. first and middle only v. Last name only, etc. Thus, as plead[ed] and applied for the application is denied as is.

Kollman argues that the district court abused its discretion by failing to consider Oliver's best interests and the factors discussed in *Saxton*. In its order, the district court decided that the name change as applied for—William Oliver Kollman—was not in Oliver's best interests, explaining that "there was not a showing that the 'substantial welfare' of Oliver necessitates such change by clear and compelling evidence." But this statement does not indicate whether or how the district court considered and weighed

relevant factors in determining that the name change is not in Oliver's best interests. *See Saxton*, 309 N.W.2d at 301. And the district court's statement that "this decision has zero to do with any issue of gender whatsoever" says what the district court did *not* consider, but it does not state what the district court *did* consider. The district court's failure to provide findings that indicate its consideration of relevant factors is an abuse of discretion. *See C.M.G.*, 516 N.W.2d at 561. We therefore reverse the district court's order and remand the case for further proceedings.

On remand, the district court should consider and weigh factors relevant to Oliver's best interests and make explicit written findings on those factors. We direct the district court to the nonexclusive factors outlined in *Saxton*. Kollman, drawing from a New Jersey case addressing a name-change application for a transgender child, *Sacklow v. Betts*, 163 A.3d 367, 369 (N.J. Super. Ct. Ch. Div. 2017), argues that the district court should consider Oliver's age, the length of time Oliver has been using the preferred name, the impact of the name on his gender identity, his history of medical or mental-health counseling, his preference and motivation for the name change, and Johnson's reason for withholding consent when making the best-interests determination. Although we do not adopt these specific factors as factors that must be considered in the case of a name-change application for a transgender child, we observe that, because the *Saxton* factors are broad and nonexclusive, the district court may consider these factors to the extent they are relevant to Oliver's best interests. *See Saxton*, 309 N.W.2d at 301.[4]

[4] We note that the district court stated that it had a "struggle . . . regarding the exact change request." We are unsure from the record what the struggle was, but we agree with the

Because about a year has passed since the district court's evidentiary hearing on the name-change application, the district court may, in its discretion, reopen the record.

Reversed and remanded.

district court that it should evaluate the name change precisely as sought in the application, barring any changes made, or alternatives presented, by the applicant.